

RICHARD K. RATHBUN (5183)
Assistant Utah Attorney General
MARK L. SHURTLEFF (4666)
Utah Attorney General
160 East 300 South, Sixth Floor
P.O. Box 140856
Salt Lake City, Utah 84114-0856
Telephone: (801) 366-0100
Email: rrathbun@utah.gov
Attorneys for Defendant George Robison

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

HENRY S. BROCK and JAY RICE,

Plaintiffs,

vs.

GARY HERBERT, et al.,

Defendants.

**DEFENDANT GEORGE ROBISON'S
MOTION TO DISMISS COMPLAINT**

Case No. 2:09-cv-01118

Judge Tena Campbell

Defendant George Robison ("Defendant"), through undersigned counsel, moves this Court, pursuant to Fed. R. Civ. P. 12(b)(1) and (6), for an order dismissing, with prejudice, all claims against him. Defendant hereby joins in the motion to dismiss (Doc. 9), including supporting memorandum, also filed in this matter by Defendants Herbert, et al.

Defendant is a state employee, named in both his individual and official capacities as "head of the licensing area of the DOS [Division of Securities]." (Complaint, ¶¶ 1, 14, 29) Count I of the Complaint claims damages against him under 42 U.S.C. § 1983 for violation of Plaintiffs' civil rights, while the remaining two Counts (II and III) appear to seek relief against

other defendants, including the State of Utah. The only allegations against this Defendant are: that he “would not allow Rice to work in Salt Lake City” (Complaint, ¶ 14); that he and all other Defendants failed “to supervise, fire, correct, or reprimand subordinates” (Complaint, ¶ 15); that he committed unspecified “torts” (Complaint, ¶ 18); and that he conducted a records examination in Plaintiff Jay Rice’s office in March of 2000 (Complaint, ¶ 32).

This Court should dismiss Plaintiffs’ claims against Defendant on the following grounds: (1) this Court lacks subject matter jurisdiction; (2) Plaintiffs’ claims are barred by the applicable statute of limitations; (3) Plaintiffs’ claims are barred by the Governmental Immunity Act of Utah, including its notice requirements; and (4) Plaintiffs have failed to state a claim upon which relief can be granted. The reasons for this Motion are more fully set forth in the memorandum (Doc. 10) in support of the motion to dismiss, filed on this date by Defendants Herbert, et al., the contents of which this Defendant joins in, adopts and incorporates by reference herewith, pursuant to Fed. R. Civ. P. 10(c).

Accordingly, Defendant requests that this Court dismiss the Complaint against him, with prejudice, and for such other relief as the Court deems just and equitable.

DATED this 18th day of February, 2010.

MARK L. SHURTLEFF
Utah Attorney General

/s/ Richard K. Rathbun
RICHARD K. RATHBUN
Assistant Utah Attorney General
Attorneys for Defendant George Robison